

ORDINANCE NO. 2017-06

**AN ORDINANCE AMENDING AND RESTATING THE RATES AND CHARGES FOR
THE USE OF AND SERVICES RENDERED BY THE WATERWORKS SYSTEM
OF THE TOWN OF WHITESTOWN, INDIANA**

WHEREAS, the Town of Whitestown, Indiana (the “Town”) has established, acquired, and financed its waterworks pursuant to Indiana Code § 8-1.5 et. seq., as amended, and other applicable provisions of Indiana law (collectively, the “Act”), for the purpose of providing for the furnishing of potable water and related services in and outside the Town; and

WHEREAS, the current schedule of rates and charges for the waterworks of the Town are set forth in Ordinance Nos. 2013-07 and 2015-19, as otherwise may have been amended from time to time (collectively, the “Prior Ordinances”); and

WHEREAS, Reedy Financial Group P.C., the certified public accountants for and financial advisors to the Town, has prepared a rate report (the “Report”) concerning the appropriate rates and charges for the various classes of users of the waterworks; and

WHEREAS, utilities are entitled to a return upon their investment, the extent to which a municipally owned utility should earn a fair return on its investment is a matter of public policy in the discretion of the Town, and the Town elects to earn a fair return as otherwise set forth in the Report and herein; and

WHEREAS, the Report proposes certain modifications to the Town’s current schedule of rates and charges, and the Town Council of the Town (the “Council”) finds that the proposed modifications to the Town’s existing rates and charges should be enacted; and

WHEREAS, the Council finds that the rates and charges set forth herein are required to produce an income sufficient to maintain the utility property in a sound physical and financial condition to render adequate and efficient service and will enable the Town to meet its legal revenue requirements for the waterworks; and

WHEREAS, the Council has caused notice of a public hearing on the rates and charges set forth herein to be duly advertised, posted and mailed, and has held a public hearing thereon, all pursuant to the Act; and

WHEREAS, the existing rates and charges as set forth in the Prior Ordinances will remain in full force and effect unless otherwise superseded by the rates and charges set forth herein.

NOW THEREFORE, be it ordained by the Town Council of the Town of Whitestown, Indiana that:

Section 1. The rates and charges as set forth in the Prior Ordinances (the “Prior Rates and Charges”) are hereby amended and restated in their entirety as set forth in Exhibit A, attached hereto and incorporated herein by reference (collectively, the “Amended Rates and Charges”), and the Amended Rates and Charges are hereby adopted. Although this Ordinance does not adjust many of the Prior Rates and Charges, the attached Exhibit A restates all of the Town’s rates and charges for water service for

ease of reference. The Amended Rates and Charges shall replace and supersede the Prior Rates and Charges, to the extent different, wherever referred to in the Prior Ordinances.¹

Section 2. For purposes of application of the Amended Rates and Charges, there is hereby established the “Existing Connection Area” and the “New Extraterritorial Connection Area” for the Town. The Existing Connection Area is depicted in Exhibit B, attached hereto and incorporated herein by reference, and generally includes all current connections to the waterworks as well as all property within the current municipal boundaries of the Town. All property subsequently added to the Town’s municipal boundaries shall be added to the Existing Connection Area at the time its addition to the Town’s municipal boundaries becomes effective. All areas or connections not included in the Existing Connection Area shall pay the Amended Rates and Charges applicable to the New Extraterritorial Connection Area. Where different in the Amended Rates and Charges, the rate or charge differential between the Existing Connection Area and the New Extraterritorial Connection Area is thirteen percent (13%).

Section 3. Aside from the Prior Rates and Charges that are amended with the Amended Rates and Charges as set forth in this Ordinance and the attached Exhibit A, all other provisions of the Prior Ordinances shall remain in full force and effect.

Section 4. All parts of ordinances in conflict herewith are hereby superseded.

Section 5. The provisions, rates, and charges of this Ordinance are severable. In the event any one or more of the provisions contained in this Ordinance should be invalid or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein, and/or the prior ordinances of the Town, shall not in any way be affected or impaired and shall remain in full force and effect. Furthermore, to the extent a rate or charge in this Ordinance is declared invalid, the higher of a valid charge or the original charge or fee previously established by the Town shall be effective and/or retroactive as though unaltered herein.

Section 6. This Ordinance shall be in full force and effect from and after its passage, provided that the Amended Rates and Charges shall go into effect for all bills rendered after April 1, 2017.

[Signature page follows]

¹ To the extent a rate or charge set forth in Exhibit A is the same as the Prior Rates and Charges for an applicable user, this Ordinance does not amend such Prior Rates and Charges.

PASSED AND ADOPTED by the Town Council of the Town of Whitestown, Indiana on this _____ day of _____, 2017.

THE TOWN COUNCIL OF THE TOWN
OF WHITESTOWN, INDIANA

YAY/NAY

Eric Miller, President

Susan Austin, Vice President

Kevin Russell

Clinton Bohm

Jeffrey Wishek

ATTEST:

Matt Sumner, Clerk-Treasurer
Town of Whitestown, Indiana

3115960

EXHIBIT A

Water Rates and Charges for the Whitestown Municipal Water System

Section 1. Applicability

This Schedule applies to all water service rendered by the Town in the Whitestown Municipal Water System.

Section 2. Meter Reading

Metered accounts will be billed monthly. All meters should be read monthly, where practical. Customers will be billed on the basis of actual consumption for the total reading period, less the estimated consumption billed in the first or prior month.

Section 3. Water Rates and Charges

Each customer shall pay a monthly rate for each service connection which shall be a flow charge based on the amount of water consumed, but in no event less than the minimum monthly service charge established for the Customers' applicable size meter. There shall be and there is hereby established for the availability, use of, and/or the service rendered within the Whitestown Municipal Water System the following schedule of rates and charges:

A. Flow Charge

<u>Consumption per month</u>		<u>Rate Per 1,000 Gallons</u>	
		Existing Connection Area	New Extraterritorial Connection Area*
First	2,000 gallons	\$13.51	\$15.27
Next	5,000 gallons	8.11	9.16
Next	13,000 gallons	7.91	8.94
Next	30,000 gallons	7.76	8.77
Over	50,000 gallons	7.66	8.66

* The difference between the New Extraterritorial Connection Area and the Existing Connection Area is 13%.

B. Minimum Service Charge Per Month

Each metered user shall pay a minimum monthly service charge in accordance with the following applicable size meter installed or unit. Multi-family residential connections (e.g., apartments, duplexes, etc.) with multiple units or service spaces (e.g., leasing office), shall pay the minimum service charge for a 5/8" meter for each unit or separate service space unless the minimum monthly charge for the applicable meter size set forth below is greater. By way of example, an apartment in the Existing Connection Area with a 1" meter and 2 units will pay a minimum service charge of \$54.06 per month (\$27.03 x 2 units).

<u>Meter Size</u>	<u>Minimum Monthly Charge</u>	
	Existing Connection Area	New Extraterritorial Connection Area*
5/8 or 3/4" meter (or each unit)	\$ 27.03	\$30.54
1" meter	28.36	32.05
1-1/2" meter	29.70	33.56
2" meter	33.37	37.71
3" meter	60.40	68.25
4" meter	70.41	79.56
6" meter	93.77	105.96
8" meter	120.47	136.13

C. Indianapolis Water Rate Tracker

For so long as the Town shall contract with the Department of Public Utilities of the City of Indianapolis d/b/a Citizens Water ("Citizens Water") for the purchase of water, the Town shall be entitled to recover or refund through its rates and charges increases or decreases, respectively, in costs associated with a change in the costs to the Town for the water services provided by Citizens Water through a water rate tracker. If Citizens Water adjusts the rates and charges for water service to the Town, the Town may, in its sole discretion, elect to adjust the rates and charge set forth in this Section 3 either upward or downward to reflect the change in costs of water service. The Town shall maintain on file cost justification reflecting such changes in costs and the allocation of such costs to the flow charge. Any change in the flow charge under Section 3(A) pursuant to this provision shall be implemented upon approval of the Council and without the need for an additional public hearing.

D. Unmetered Monthly Charge

Water furnished to unmetered residential and commercial users shall be charged on the basis of the metered gallon rates hereinbefore set forth as estimated and established by the Town's Public Works Director or professional engineer, but in no event shall the monthly charge be less than the minimum charge imposed on customers with a similar sized line.

* The difference between the New Extraterritorial Connection Area and the Existing Connection Area is 13%.

E. Private Fire Sprinkler Line Connection Charge

Each Customer with a private fire sprinkler line connection serving the Customer's location shall pay a monthly fire protection charge for private fire protection services in accordance with the following schedule based upon the size of the sprinkler connection for each private fire sprinkler line connection.

<u>Meter Size</u>	<u>Monthly Charge</u>
1" meter	\$ 7.59
1-1/4" meter	11.92
1-1/2" meter	17.12
2" meter	30.47
3" meter	68.54
4" meter	121.89
6" meter	274.25
8" meter	487.56

F. Fire Hydrants

Public Hydrant – per hydrant – per annum \$294.88

Private Hydrant – per hydrant – per annum \$344.40

A monthly surcharge¹ shall be included for all Customers for hydrant rental charges pursuant to the following schedule.

<u>Meter Size</u>	<u>Monthly Charge</u>
5/8 or 3/4" meter	\$ 4.91
1" meter	6.87
1-1/2" meter	8.84
2" meter	14.24
4" meter	68.74
6" meter	103.11

The Town will pay the monthly surcharge above for all Customers located within the corporate boundaries of the Town.

G. Reserved

[Formerly Surcharge for Perry-Worth Line Extension]

¹ The surcharge is in addition to any and all other rates and charges.

H. Temporary Users

Water furnished to temporary users such as contractors, etc., shall be charged on the basis of the metered rates hereinbefore set forth as estimated and established by the Superintendent of the Municipal Water Utility.

Section 4. Tap and Capacity Fees

A. Tap Fee

1. The tap fee reflects the costs associated with connecting or tapping each Customer to the Town's system. Where a single Customer shall make multiple connections, an appropriate multiple of the single tap fee shall be charged.
2. A single tap fee for each Customer connecting to the system shall be \$550, exclusive of excavation, for the installation of a 5/8 or 3/4 inch residential water meter service. All other services shall be installed at the Town's actual cost, but at not less than \$550.

B. Capacity Fee

1. The capacity fee reflects the cost of the capacity in the Town's water facilities which must be permanently allocated to real estate requiring new or expanded water service.
2. The capacity fee for each equivalent dwelling unit ("EDU") or single residential unit requiring service from the System shall be \$1,737. Such fee shall apply to each new customer connecting to the Town's water system or to an existing customer that is expanding its current use.
3. The capacity fees will be determined on the basis of the total number of EDUs with a residential unit considered one (1) EDU. All other parcels of land not used for residential dwelling units shall be converted to EDUs on the basis of the anticipated water usage from such real estate as compared to the anticipated sewage for residential dwelling units. When calculations of EDUs result in a fraction, the result shall be rounded up to the next whole number. For example, an EDU calculation of 3.3 for a property will be rounded up to 4 EDUs for purposes of calculating the capacity fee for such property. For no reason shall any structure connecting to the system (including, but not limited to, mobile homes, apartments, and condominiums) be treated as less than one (1) EDU for purposes of any of the Town's rates and charges.

C. Miscellaneous

1. The Town shall not allow final and permanent connection or connections to the Town's potable water facilities of any structure requiring water service until a permit is obtained and payment has been made to the Town for the appropriate tap and capacity fees.

2. Any developer of real estate applying for service shall pay the applicable fees by platted sections before the sections are submitted for approval and recording or otherwise enter into an acceptable developer's agreement which shall provide for the future payment of the tap and capacity fees prior to final and permanent connection.
3. Tap and capacity fees shall be non-refundable.

Section 5. Service Charges

A. Establishing an account and installing a meter:

5/8 or 3/4" meter:	\$ 25.00 plus actual meter costs
1" meter:	\$ 25.00 plus actual meter costs
1-1/2" meter:	\$ 25.00 plus actual meter costs
2" meter:	\$ 25.00 plus actual meter costs
3" meter:	\$ 25.00 plus actual meter costs
4" meter:	\$ 25.00 plus actual meter costs
6" meter:	\$ 25.00 plus actual meter costs
8" meter	\$ 25.00 plus actual meter costs

Visit to the premises regarding past due account (left on):	\$25.00
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Penalty charge for tampering with a meter or any of the Town's regulating or measuring equipment, or for access and use of the Town's water supply without a meter:	\$175.00
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Service call (including special meter reading and other service calls)	\$75.00 per hour
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- B. Subsequent test of meter at Customer's request to the Town within 36 months of the First Test:

	Actual Cost of Test (including time & materials)
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- C. Charge, in addition to cost of excavation, for reconnection of service after disconnection of the same Customer:

	\$100.00
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- D. Reprocessing of Customer account due to check not honored (matter shall also be referred for prosecution to prosecuting attorney of county within 90 days):

	Greater of \$27.50 or 5% of amount due, but not more than \$250.
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E.	Aggregated billing for Customer with multiple meters:	\$10.00 monthly
F.	Temporary hydrant connection (exclusive of water consumption):	\$100.00
G.	Temporary hydrant meter deposit:	
	3/4" meter:	\$100.00
	2" meter:	\$750.00
H.	Temporary hydrant meter rental:	
	3/4" meter:	\$5.00 monthly
	2" meter:	\$35.00 monthly
I.	Late reporting of temporary hydrant meter water usage:	\$25.00
J.	Repair of damaged meter:	
	All meter sizes:	Actual Cost of Repair
	Replacement of a damaged meter:	Actual Cost of Replacement
K.	Inspection Fees (Per Trip):	\$50.00 (residential) \$100.00 (non-residential)

Section 6. Collection and Payment Policies, Charges and Disconnection

A. Late Payment Charges

Bills for metered water service will be rendered monthly. Bills which remain unpaid for a period of more than seventeen (17) days following a mailing of the bill by the Town shall be delinquent, and a late payment charge in the amount of ten percent (10%) of the first \$3.00 and three percent (3%) of the excess of \$3.00 shall be added to the bill and owed by the Customer.

B. Over Payment

Over payments by the Customer will be applied to the Customer's account as a credit towards future rates, charges, and fees until such credits are fully depleted. Upon termination of the Customer's account, any credits remaining after satisfaction of all applicable rates, charges, and fees shall be refunded to the Customer.

C. Partial Payment

In the event that the Customer tenders only partial payment or any amount less than the total amount of all rates, charges, and fees outstanding, payments from the Customer shall be applied in the following manner:

1. First, payments shall be applied against any and all fees and other non-recurring charges (i.e., late payment charges, capacity fees, subsequent connector fees, reconnection fees, etc.), in a manner and order solely within the Town's discretion, until all such fees and charges are fully satisfied.
2. Second, payments remaining after full satisfaction of rates, charges, and fees due and owing under Paragraph 1 shall be applied to that portion of the Customer's account owed for rates and charges from water services (i.e., monthly water rates, etc.).
3. Third, payments remaining after full satisfaction of rates, charges, and fees due and owing under Paragraphs 1 and 2 shall be applied to the remaining portion of the Customer's account owed for rates and charges from sewer services (i.e., monthly sewer rates, etc.).

In the event of a dispute as to the classification of a fee, rate, charge, or otherwise under this subsection, all determinations by the Town as to the ultimate allocation of specific payments shall be final.

D. Collection Policies

The Town reserves the right at all times, notwithstanding any waiver, whether express or implied, to pursue any and all available actions it deems necessary, as permitted by law, to collect any and all outstanding or delinquent rates, fees, and charges, including, but not limited to, filing legal actions in a court of competent jurisdiction and/or filing liens against the Customer's property, and recover its costs, including, but not limited to, its attorneys' fees.

E. Disconnection of Service

The Town reserves the right to disconnect a Customer for nonpayment of service to the Customer's property. However, service may not be discontinued to a Customer until the charges have been due and unpaid for at least thirty (30) days. Prior to discontinuance of service, the Town shall provide the Customer, by mail, with at least ten (10) days prior written notice of its determination to discontinue service if the unpaid charges are not paid before a date specified in the notice.

Section 7. Customer Deposits

Customers of the waterworks who have had their water service disconnected and reconnected three (3) times or more within a three (3) year period shall be required to pay a deposit to the Town in an amount equal to the estimated average payment due from the property served by the waterworks for a three (3) month period (as determined by the Town).

The deposit shall be obtained to ensure payment of water fees and may be applied to delinquent water fees of the Customer at any time by the Town. If all or a portion of the deposit is applied to delinquent water fees, the Customer shall be required to replenish the required deposit amount within thirty (30) days of prior written notice of the Town to do so. If a Customer fails to fully replenish such deposit, the Town reserves the right to disconnect service to the Customer in accordance with Section 6(E).

Any Customer deposits received shall be maintained by the Town in a separate fund. Deposits held by the Town or not applied to delinquent fees for twelve (12) months or more will accrue interest at a non-compounding rate of 2% per annum. The deposit, less any outstanding penalties and service fees, shall be refunded to the Customer after a notarized statement from the Customer that as of a date certain the property being served: (a) has been conveyed to another person; or (b) no longer uses or is connected with any part of the system. A statement under (a) above must include the name and address of the person to whom the property is conveyed or transferred. If a Customer fails to satisfy costs and fees within sixty (60) days after the termination of his/her use or ownership of the property served, the Customer forfeits the deposit and all accrued interest and the forfeited amount shall be applied to the outstanding fees.

EXHIBIT B

